

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA WATER COMPANY (U 133-W), for an order authorizing it to increase rates for water service by \$19,826,100 or 29.72% in the year 2003; by \$6,327,800 or 7.31% in the year 2004; and by \$6,326,200 or 6.81% in the year 2005 in its Region III Service Area and increased rates for the General Office Allocation in all of its Customer Service Areas in this Application including: Arden-Cordova, Bay Point, Clearlake, Los Osos, Ojai, Santa Maria, Simi Valley and Metropolitan.

Application 02-11-007
(Filed November 4, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON THE WATER DIVISION'S REPORT ON SOUTHERN CALIFORNIA
WATER COMPANY'S REGIONALIZATION OF RATES IN REGION III**

Summary

Certain portions of the Water Division's Report on Southern California Water Company's Regionalization of Rates in Region III will not be considered in deciding this matter. Parties may file comments on the remaining portions of the report on or before July 8, 2003.

Background

At the request of Southern California Water Company (SCWC), Decision (D.) 00-06-075 established single tariff rates for Region III, which is the region under consideration in this current general rate case (GRC) proceeding. The issue of regional rates was controversial and in adopting SCWC's request, the

Commission ordered: “The Commission’s Water Division is directed to monitor the impact of single tariff pricing and report to the Commission in the next general rate case for SCWC’s Region III with any recommendations for change in this -- pricing mechanism.” (Ordering Paragraph 5.) The current GRC proceeding for Region III is “the next general rate case” and is the proper proceeding for the Water Division to provide such recommendations. At the time D.00-06-075 was issued, the Water Division had both advocacy and advisory functions.

SCWC filed the current GRC application on November 4, 2002. A prehearing conference was held on January 31, 2003. Testimony by the Office of Ratepayer Advocates (ORA) and other interested parties was distributed on April 8, 2003. The advocacy function in water proceedings is now the responsibility of ORA rather than the Water Division. In its report, among other things, ORA recommended that regional rates be discontinued in favor of district specific rates. SCWC issued rebuttal on May 1, 2003 and evidentiary hearings for the GRC were held the week of May 12, 2003.

During evidentiary hearings, it was indicated that the Water Division would soon be issuing a separate report on the effects of single tariff rates in Region III, specifically in response to the direction given in D.00-06-075. On June 10, 2003, that report was served on all parties. While the report criticizes single tariff pricing as being advantageous to SCWC’s shareholders and appears to question the motives of the company in making the request for regional rates, it indicates that more time is needed to make a comprehensive assessment. The report recommends that SCWC be ordered to continue to provide the Commission with an annual report as previously ordered in D.00-06-075, along with additional information on low-income customers, and that in the next GRC,

SCWC should provide the Commission with a final report that includes justification for continuation of regional rates.

On June 11, 2003, the Water Division filed a motion requesting parties be given additional time to comment on its report. In the motion, the Water Division recognized the report was late but indicated that it was unaware of the schedule and concluded that, since the report does not recommend a change in the single tariff pricing mechanism but rather recommends that the monitoring process be continued to the next GRC for Region III, a comment period of a few days should provide the parties with an adequate opportunity to have their positions heard. ORA responded to the motion on June 12, 2003 and requested that the parties be given until June 23, 2003 to comment. SCWC, by e-mail note, requested a ruling not be issued until it had an opportunity to respond and indicated it would need most of the 15 days specified in the Rules of Practice and Procedure for such purposes. On June 25, 2003, SCWC filed its response to the Water Division motion. SCWC objects to the report as untimely and containing allegations that are untrue. If the Commission were to give consideration to the report, SCWC asks it be given the opportunity to examine a witness and respond. Rather than delay the issuance of a final decision and the effectiveness of new rates, an outcome that is unfair to SCWC, which bears no responsibility for the lateness of the report, SCWC recommends that the report be rejected as untimely and that the Water Division be ordered to submit an analysis of single tariff pricing in SCWC's next Region III GRC.

Discussion

The Water Division report on regional rates contains background information, comparisons of certain recorded information and data, analyses of that information and data and recommendations. The Water Division, in its

motion requesting additional time for parties to comment, downplays the analysis contained in the report and emphasizes that it is not recommending a change in the single tariff pricing mechanism but rather recommends that the monitoring process be continued to the next GRC. However, the analysis in the report may have relevance in that ORA is recommending that single tariff pricing be discontinued now. To address this situation, it would be preferable to process the Water Division report in a manner similar to what was done for the April 8, 2003 testimony in this proceeding. That would include providing the opportunity for rebuttal testimony, conducting evidentiary hearing on the testimonies, filing briefs and filing reply briefs. Whether the Water Division analysis, including the allegations that are of concern to SCWC, is reasonable, correct or supportable could then be determined with some certainty. However, the process from service of the April 8 testimony to the filing of reply briefs has taken over eleven weeks. A further delay of that magnitude would likely delay the implementation of newly authorized 2003 rates on a day-for-day basis, for reasons that are not of SCWC's making.

The Water Division summarizes its report with eight conclusions and recommendations¹ as follows:

1. SCWC's single-tariff pricing for customers in Region III was a deviation of the well-established ratemaking principles practiced by this Commission.
2. More customers are subsidizing fewer customers at a higher cost.

¹ See pages 15 and 16 of the Report on Southern California Water Company's Regionalization of Rates in Region III.

3. SCWC based its case for regionalization on projected numbers, which appear to be significantly flawed.

4. In Region III, SCWC earned a higher ROR in years 2000, 2001 and 2002 than authorized in Commission Decisions D.00-06-074 and D.01-12-063. This shareholder benefit appears to be related to the flawed forecast of significantly higher costs than actually experienced in the districts being subsidized.
5. More time is needed to make a comprehensive assessment.
6. SCWC with the help of this Commission must explore other ways of dealing with issues of rising costs of water utility regulation, affordability and water conservation.
7. SCWC should be ordered to continue to provide the Commission with an annual report and to “continue to calculate revenue requirements on a stand-alone district basis for its Region III, and, provide an analysis of the results annually, with copies of the district annual reports, with such results subject to analysis and recommendations by the Commission’s Water Division and by communities served within the region.” In addition, Commission should require SCWC to provide the numbers of low-income customers in each of the eight CSAs and the average amount that low-income customers are paying to subsidize customers in other district.
8. In its next general rate case, SCWC should be requested to provide the Commission with a final report, with a more comprehensive analysis, which should include data from years 2000 through 2006 and include the utilities justification for continuation of regionalization.

From a review of the report, it appears that Items 2, 3 and 4 are based on analyses that should properly be subject to full examination and response. The underlying data may need to be scrutinized; the basis and support for allegations and conclusions may need to be explored; and the parties’ rebuttal position, if any, would need to be considered. However, the value of further rebuttal, evidentiary hearings, and briefing is questionable, since the Water Division

concludes that more time is needed to make a comprehensive assessment (Item 6) and recommends the continuation of monitoring (Item 7) and a final report and determination in the next GRC (Item 8). This indicates that the Water Division's determinations in Items 2, 3 and 4 might change when more information is available and additional analysis is performed. Therefore, due to (a) the probability that Items 2, 3 and 4 will be disputed by at least one of the parties, (b) the potential scheduling problems caused by full litigation of the items and (c) the potential interim nature of the determinations within those items, Items 2, 3 and 4 as well as the supporting analyses will not be considered in deciding SCWC's current GRC request. If the final decision in this case defers consideration of changes to the single tariff pricing mechanism to the next GRC, Items 2, 3 and 4 can be comprehensively addressed at that time.

On the other hand, it appears Items 1, 5, 6, 7 and 8 do not require the same degree of scrutiny. They consist of straightforward statements, opinions and recommendations that can adequately and fairly be addressed by the parties through the filing of comments. As such, parties may file comments on Items 1, 5, 6, 7 and 8 on or before July 8, 2003.

IT IS RULED that:

1. Parties may file comments on a limited portion of the Water Division's Report on Southern California Water Company's Regionalization of Rates in Region III, as described in the body of this ruling. Comments may be filed on or before July 8, 2003 at which time this proceeding shall stand submitted for decision.

2. Certain portions of the Water Division report, as described in the body of this ruling, will not be considered in deciding this matter.

Dated June 30, 2003, at San Francisco, California.

/s/ DAVID K. FUKUTOME

David K. Fukutome
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on the Water Division's Report on Southern California Water Company's Regionalization of Rates in Region III on all parties of record in this proceeding or their attorneys of record.

Dated June 30, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.